

HOUSE BILL 1036

E3

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By: **Delegate Arora**

Introduced and read first time: February 11, 2011

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Juvenile Law – Victims’ Rights – Notice of Offender’s Home, School, and**
3 **Workplace**

4 FOR the purpose of authorizing the court or juvenile intake officer to include, as a
5 condition of release for a child alleged to have committed a delinquent act
6 against a victim pending an adjudicatory or disposition hearing, a certain
7 requirement of no contact with the victim at the victim’s school; authorizing the
8 Department of Juvenile Services, under certain conditions, to disclose certain
9 information regarding the address, school, and place of employment of a child
10 adjudicated delinquent of a certain offense to the victim of the delinquent act or
11 the victim’s representative; and generally relating to victims’ rights.

12 BY repealing and reenacting, with amendments,
13 Article – Courts and Judicial Proceedings
14 Section 3–8A–15(j) and 3–8A–27
15 Annotated Code of Maryland
16 (2006 Replacement Volume and 2010 Supplement)

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
18 MARYLAND, That the Laws of Maryland read as follows:

19 **Article – Courts and Judicial Proceedings**

20 3–8A–15.

21 (j) (1) If a child is alleged to have committed a delinquent act, the court
22 or a juvenile intake officer shall consider including, as a condition of releasing the
23 child pending an adjudicatory or disposition hearing, reasonable protections for the
24 safety of the alleged victim.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2) If a victim has requested reasonable protections for safety, the
2 court or juvenile intake officer shall consider including, as a condition of releasing the
3 child pending an adjudicatory or disposition hearing, provisions regarding no contact
4 with the alleged victim or the alleged victim's premises, **SCHOOL**, or place of
5 employment.

6 3-8A-27.

7 (a) (1) A police record concerning a child is confidential and shall be
8 maintained separate from those of adults. Its contents may not be divulged, by
9 subpoena or otherwise, except by order of the court upon good cause shown or as
10 otherwise provided in § 7-303 of the Education Article.

11 (2) This subsection does not prohibit:

12 (i) Access to and confidential use of the record by the
13 Department of Juvenile Services or in the investigation and prosecution of the child by
14 any law enforcement agency;

15 (ii) Access to and confidential use of the record by the Baltimore
16 City Health Department:

17 1. If the Baltimore City Health Department is providing
18 treatment or care to a child who is the subject of the record, for a purpose relevant to
19 the provision of the treatment or care;

20 2. If the record concerns a child convicted of a crime or
21 adjudicated delinquent for an act that caused a death or near fatality; or

22 3. If the record concerns a victim of a crime of violence,
23 as defined in § 14-101 of the Criminal Law Article, who is a child residing in
24 Baltimore City for the purpose of developing appropriate programs and policies aimed
25 at reducing violence against children in Baltimore City;

26 (iii) A law enforcement agency of the State or of a political
27 subdivision of the State, the Department of Juvenile Services, or the criminal justice
28 information system from including in the law enforcement computer information
29 system information about an outstanding juvenile court ordered writ of attachment,
30 for the sole purpose of apprehending a child named in the writ; or

31 (iv) A law enforcement agency of the State or of a political
32 subdivision of the State from releasing to the public photographs and identifying
33 information of a child who has escaped from a detention center for juveniles or a
34 secure residential facility for juveniles, for the purposes of facilitating apprehension of
35 the child and ensuring public safety.

1 (ii) A record that is shared under this paragraph may only
2 provide information that is relevant to the supervision, care, and treatment of the
3 child.

4 (iii) The Department of Juvenile Services shall be liable for an
5 unauthorized release of a court record under this paragraph.

6 (iv) The Department of Juvenile Services shall adopt regulations
7 to implement this paragraph.

8 (5) (i) This subsection does not prohibit access to and use of a court
9 record by a judicial officer who is authorized under the Maryland Rules to determine a
10 defendant's eligibility for pretrial release, counsel for the defendant, or the State's
11 Attorney if:

12 1. The individual who is the subject of the court record is
13 charged as an adult with an offense;

14 2. The access to and use of the court record is strictly
15 limited for the purpose of determining the defendant's eligibility for pretrial release;
16 and

17 3. The court record concerns an adjudication of
18 delinquency that occurred within 3 years of the date the individual is charged as an
19 adult.

20 (ii) The Court of Appeals may adopt rules to implement the
21 provisions of this paragraph.

22 (6) (i) This subsection does not prohibit access to and confidential
23 use of a court record by the Baltimore City Health Department:

24 1. If the Baltimore City Health Department is providing
25 treatment or care to a child who is the subject of the record, for a purpose relevant to
26 the provision of the treatment or care;

27 2. If the record concerns a child convicted of a crime or
28 adjudicated delinquent for an act that caused a death or near fatality; or

29 3. If the record concerns a victim of a crime of violence,
30 as defined in § 14-101 of the Criminal Law Article, who is a child residing in
31 Baltimore City for the purpose of developing appropriate programs and policies aimed
32 at reducing violence against children in Baltimore City.

33 (ii) 1. The Baltimore City Health Department shall be liable
34 for the unauthorized release of a court record under this paragraph.

1 2. Within 180 days after the Baltimore City Health
2 Department accesses a court record under this paragraph, the Baltimore City Health
3 Department shall submit a report to the court detailing the purposes for which the
4 record was used.

5 (7) (i) This subsection does not prohibit access to and confidential
6 use of a court record by the Department of Human Resources for the purpose of
7 claiming federal Title IV–E funds.

8 (ii) The Department of Human Resources shall be liable for the
9 unauthorized release of a court record under this paragraph.

10 (c) The court, on its own motion or on petition, and for good cause shown,
11 may order the court records of a child sealed, and, upon petition or on its own motion,
12 shall order them sealed after the child has reached 21 years of age. If sealed, the court
13 records of a child may not be opened, for any purpose, except by order of the court
14 upon good cause shown.

15 (d) This section does not prohibit access to or use of any juvenile record by
16 the Maryland Division of Parole and Probation or the Maryland Parole Commission
17 when the Division or the Commission is carrying out any of their statutory duties
18 either at the direction of a court of competent jurisdiction, or when the Maryland
19 Parole Commission is carrying out any of its statutory duties, if the record concerns a
20 charge or adjudication of delinquency.

21 (e) This section does not prohibit access to and use of any juvenile record by
22 the Maryland Division of Correction when the Division is carrying out any of its
23 statutory duties if: (1) the individual to whom the record pertains is committed to the
24 custody of the Division; and (2) the record concerns an adjudication of delinquency.

25 (f) Subject to the provisions of §§ 9–219 and 9–220 of the Human Services
26 Article, this section does not prohibit access to or use of any juvenile record for
27 criminal justice research purposes. A record used under this subsection may not
28 contain the name of the individual to whom the record pertains, or any other
29 identifying information which could reveal the individual's name.

30 (g) This section does not prohibit a victim or victim's representative who has
31 filed a notification request form from being notified of proceedings and events
32 involving the defendant or child as provided in this subtitle, the Criminal Procedure
33 Article, or the Criminal Law Article.

34 (h) This section does not prohibit the Department of Public Safety and
35 Correctional Services or a supervising authority, as defined in § 11–701 of the
36 Criminal Procedure Article, from accessing or using the part of a juvenile record that
37 identifies an offense committed by a juvenile for purposes of complying with Title 11,
38 Subtitle 7 of the Criminal Procedure Article.

1 **(I) THIS SECTION DOES NOT PROHIBIT THE DEPARTMENT OF**
2 **JUVENILE SERVICES, AT THE REQUEST OF A VICTIM OR THE VICTIM'S**
3 **REPRESENTATIVE WHO HAS FILED A NOTIFICATION REQUEST FORM, FROM**
4 **ORDERING THE DISCLOSURE OF THE HOME ADDRESS, SCHOOL, AND PLACE OF**
5 **EMPLOYMENT OF A CHILD ADJUDICATED DELINQUENT FOR COMMITTING AN**
6 **ACT THAT WOULD BE RAPE OR A SEXUAL OFFENSE IF COMMITTED BY AN ADULT**
7 **TO THE VICTIM OF THE DELINQUENT ACT OR THE VICTIM'S REPRESENTATIVE.**

8 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
9 October 1, 2011.